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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,685	10/29/2003	Laura Lynn Heilman	9398	9815

27752 7590 07/19/2005

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 07/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tate

Office Action Summary

Application No.

10/697,685

Applicant(s)

HEILMAN ET AL.

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050615</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The Office objects to the numerous unrelated and/or duplicative prior art submissions with respect to the claimed invention. Applicants have submitted over 150 prior art publications resulting in thousands of pages of either unrelated or duplicative references with no explanation of relevance to the claimed invention. Many of the references were submitted late in the prosecution after two actions on the merits. Have been mailed. Since a long list of prior art references have been submitted, applicants are requested to be of most significance. Please see *Pen Yan Boats, Inc. v. Sea Lark Boats, Inc.*, 359 F.Supp. 948 175 USPQ 260 (S.D.Fla. 1972).

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1-4, 6-12, and 14-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Staub et al. (US 5,980,583). Staub is considered to disclose the claimed invention comprising:

an interior housing **14**, located inside of a fabric article drying appliance and an exterior housing **60** located outside of said fabric article drying appliance, wherein said interior housing and exterior housing are in communication with one another; or alternatively:

an interior housing **14**, located inside of a fabric article drying appliance and an exterior housing **60** located outside of said fabric article drying appliance, wherein said

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interior housing and exterior housing are connected to one another so as to be in communication with one another wherein said exterior housing includes sensitive components **64 & 50**, components **72 & 74** used to communicate with a user, or a combination thereof; or alternatively:

a) a fabric article drying appliance **10**; and

b) a fabric article treating device comprising an interior housing **14**, wherein said interior housing is located inside of said fabric article drying appliance and an exterior housing **60** located outside of said fabric article drying appliance, wherein said interior housing and said exterior housing are in communication with one another; or alternatively:

a) providing a fabric article treating device wherein said fabric article treating device is comprised of an interior housing located inside of a fabric article drying appliance and an exterior housing located outside of said fabric article drying appliance wherein said interior housing and said exterior housing are in communication with one another (please see column 3 lines 30-40);

b) providing a reservoir, a pump, and a nozzle within said fabric article treating device wherein said reservoir includes a benefit composition whereby said benefit composition moves from said reservoir, through said pump to said nozzle (please see column 5 lines 1-44); and

c) spraying said benefit composition through said nozzle into said fabric article drying appliance (please see column 5 line 64 through column 6 line 8). Staub is also considered to disclose the claimed conduit **70**, interior/exterior electrical communication

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(column 6 lines 17-22), interior/exterior compositional transfer communication (column 6 lines 52-63), interior/exterior thermal communication (column 4 lines 29-38), closure structure interior housing location (column 3 lines 30-41), gravitational counter balance (inherently disclosed at column 3 lines 30-35 because the disclosed interior drum housing mounted within an exterior housing must be gravitationally counter balanced otherwise the tumbling feature would not be possible), sensitive components (column 5 line 35), mechanical or electrical activation (column 4 lines 34-35), sensors (column 4 line 36), and substantial independent treating device operation (column 4 lines 1-28).

Claim Rejections - 35 USC § 103

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Staub in view of Church (US 4,891,890). Staub is considered to disclose the claimed invention, as discussed above, under the anticipatory rejection, except for the claimed exterior housing located power source. Church, another fabric article treating device, is considered to disclose an exterior housing located power source at column 2 lines 61-67. It would have been obvious to one skilled in the art to combine the teachings of Staub, with the exterior housing located power source, considered disclosed by Church, for the purpose of avoiding use of another source of power for wiring which would result in an expensive and complicated task.

Claims 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staub in view of Pletcher et al. (US 6,474,563). Staub is considered to disclose the claimed invention, as discussed above, under the anticipatory rejection, except for the claimed electrical charge composition application. Pletcher, another fabric article

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treating device, is considered to disclose an electrical charge composition application at column 4 lines 26-44. It would have been obvious to one skilled in the art to combine the teachings of Staub, with the electrical charge composition application, considered disclosed by Pletcher, for the purpose of providing efficacy of a formulation.

Response to Arguments

Applicant's arguments filed April 15, 2005 have been fully considered but they are not persuasive.

anticipation

Current Office practice guides examination of claims such that a broadest reasonable interpretation of claim terms, in light of the specification, determines claim construction. In this case applicants argue that the fabric article treating device interior and exterior housing location is distinct from primary reference Staub. As more clearly shown the drawings and specification, Staub anticipates each feature claimed above. Figure 4 of Staub shows the interior of drum **14** with garment fabric in an interior cavity or tunnel **44**. These features are considered to anticipate the claimed invention as discussed under the anticipatory rejection above. The argued wrinkle releaser and heat sensors are also addressed in the rejection above, in as much as addressed in the claims. The rejection is considered proper and maintained.

obviousness

Applicants argue that primary reference Staub or secondary reference Church does not contain features addressed in the anticipatory rejection and therefore the obviousness rejection should be withdrawn. Since the anticipatory rejection is

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considered proper, the obviousness rejection should also be considered proper for several reasons. First, secondary reference Church was not cited to teach all the elements of the claimed invention, but rather it would have been obvious to one skilled in the art to combine the teachings of that reference with primary reference Staub. Each of the concerns raised by applicants regarding establishing a *prima facie* case of obviousness are addressed in the obviousness rejections above. Second, the teachings of the secondary reference include power source, which is different than the argued spraying device. Third, one skilled in the art would be motivated to combine the secondary teachings of Church with the primary teachings of Staub, because both teachings are in the same field of endeavor, both suggest a motivation to combine those teachings, and both address the claimed elements.

Applicants further argue that the obviousness rejection of Staub in view of Pletcher is improper because of the electrically charged composition feature. Although applicants argue electrically charged liquid, the Office will only address the features found in the claim language, i.e. electrically charged composition. Consistent with current Office practice, the claimed composition is broadly construed to include the expressly disclosed agents in a reservoir of secondary reference Church.

Both obviousness rejections are considered proper and therefore maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272 4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571 272 4475. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SMG

July 14, 2005

